


# BOARD OF COUNTY COMMISSIONERS

## INTER-OFFICE MEMORANDUM

To: Wayne Tedder, Director  
Tallahassee/Leon County Planning Department

From: Laura M. Youmans, Esq.  
Asst. County Attorney 

Date: January 10, 2006

Subject: Lakewood Industrial Park Proposed Rezoning

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The purpose of this memorandum is to clarify concerns regarding the proposed rezoning of the above property which, if approved, would rezone the property from R-3 (Single-Family Detached, Attached Two-Family Residential) to M-1 (Light Industrial). The parcel is designated as a "Buffer Area" on the plat of the neighboring residential subdivision. To date, the use of the property has been consistent with this designation. As discussed in a previous memorandum (Attached), this Office believes that the property is only vested for use as a "Buffer Area" and, thus, is not entitled to be rezoned to permit a more dense use of the property.

The consideration of the rezoning application was continued to give the County Attorney's Office the opportunity to determine whether approval of the proposed rezoning might violate the rights of neighboring property owners. Upon researching the matter, this Office has determined that any rights that may have been granted by the plat to the neighboring property owners are private rights that need not be enforced by the Board of County Commissioners. Should such rights exist, relief from infringement upon these rights would be appropriately sought only in a court of law as a private action between the neighboring property owners.

As you are aware, the Board's decision to grant any rezoning must be made in the interest of the health, safety, and general welfare of the community. This standard allows the Board wide discretion in its application of zoning designations. In its decision regarding the subject rezoning, the Board may take into consideration the use most appropriate for the parcel as well as the parcel's consistency with the uses of neighboring properties. In addition, case law has indicated that, at the legislative body's discretion, it may be appropriate to designate areas as buffer zones between property neighboring which may have varied or inconsistent uses. If the Board were to determine that maintaining the buffer zone is appropriate in this case, such designation could be preserved by retaining the current zoning category.

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Tallahassee/Leon County Planning Department  
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In conclusion, this Office has not determined whether any private property interests were created by virtue of the platted designations; however, for purposes of a rezoning these questions need not be addressed. The authority to decide to rezone the subject property lies in the Board of County Commissioners. In its decision the Board can take under consideration any factors that it believes will affect the health and welfare of the community, including the best use of the land and the concerns of neighboring property owners.

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Attachment